

IN SENATE OF THE UNITED STATES.

MARCH 4, 1848.

Submitted, and ordered to be printed.

Mr. UNDERWOOD made the following

REPORT:

*The Committee of Claims have had under consideration the memorial of Wm. G. Davis and Mary Ann Davis, and beg leave to report:*

That said Mary Ann, wife of said Wm. G., owns, as represented, an island upon the eastern coast of Florida, called Key Biscayne. The memorialists exhibit the copy of a deed, dated in July, 1824, from Raphael Andrew and Francisca, his wife, conveying 175 acres of land on the island of Key Biscayne to said Mary Ann, for the consideration of \$100, as evidence of title. It is alleged in the memorial, that in the latter part of the year 1837, during the prosecution of the Seminole war, said island was forcibly taken possession of, and occupied by the troops of the United States as a military post for a period of about two years, and, whilst so occupied, the troops cut down and destroyed the timber trees upon fifty acres of the land, using them for building purposes and firewood. Compensation is claimed for the use of the island, and for the timber and wood so taken and used. An account is filed charging \$5,000 for the timber trees and wood taken and used in the year 1838, and \$3,500 for the timber and wood taken in the year 1839, making an aggregate of \$8,500 for the two years. Capt. Lucien B. Webster is represented as commanding the troops on the island in 1838, and Col. Harney in the year 1839. It is stated in the affidavit of Wm. G. Davis, that he applied to Lieut. Sherman, acting as quartermaster to the troops on the island, for a certificate to show that the timber and wood were taken and used by the troops, but he refused to give such certificate, and told Davis that he must apply to Col. Harney; that he did apply to Col. Harney for a certificate, who refused to give it, and said it was Sherman's duty to give it; and that afterwards, upon a second application to Sherman, he again refused to give such certificate.

Wm. G. Davis states, in his affidavit, that Lieut. Webster said, in conversing on the subject, he thought there was about fifty acres of the wood and trees cut down, and this statement is the only one from which it can be even conjectured how much woodland was cleared. The affidavit of Davis is not regarded as legitimate evi-

dence in behalf of his wife; but even if it was, the statement of what Lieut. Webster said is liable to be condemned as *hearsay*, and should be disregarded.

Alex. G. Swasey proves that about 100 cords of mangrove wood were taken from the island in March or April, 1838, or about that time, for the use of the transports lying in the harbor; and Bradford Southwick proves that in the months of February and March, 1838, he saw Capt. Rogers and his crew cut from the island and convey on board his vessel, then in the service of the United States, between 20 and 30 cords of mangrove wood. Several other witnesses speak of wood being cut and taken in the spring of 1838 for the use of the transports then lying in port, and for the use of the troops stationed on shore, but do not specify the quantity of cords, or give any information from which a satisfactory inference can be made. Isaac Henry proves that Lieut. Hale acted as quartermaster at the island about February and March, 1838, when he was there. This is in conflict with the idea that Lieut. Sherman acted as quartermaster during the whole of that year. James T. Kenyon proves that in May or June, 1839, he saw a quantity of wood cut and corded on the island, and that it was used by steamers in the service of the United States and the troops stationed upon the island. John Pitchell corroborates the statement of Kenyon, and speaks of Major Churchill as in command at the time. The foregoing presents the strongest evidence in behalf of the claim, and, in the opinion of the committee, it is altogether too weak to authorize the payment of any part of the sum claimed.

There is no evidence showing the value of the wood taken and used. What would be the expense per cord of cutting and transporting it to market, where a market could be found for it, and at what price it would sell in the market, are matters of which we are wholly uninformed. Without knowledge on these points it is impossible to estimate properly the injury which Mrs. Davis has sustained, even if it were conceded that her title to the island was established. If there be the semblance of justice in the claim, and the deed exhibited can be relied on as showing what the property originally cost Mrs. Davis, and its value when purchased, it presents a most astonishing case of the rapid increase of value in real estate. It can scarcely be credited that the timber and wood growing upon 50 acres, less than a third of the tract which cost but \$100 in 1824, should, in 1838 and 1839, be worth \$8,500 to the owner. Besides, we think the best evidence which the claimants could produce would be the testimony of some one or more of the officers in command, and who must have remained much longer on the island, and known much more about the matter than the commanders of the vessels lying in port. We are not disposed to receive inferior evidence under the circumstances. Wherefore, the committee recommend the adoption of the following resolution:

*Resolved*, That the claim of Mary Ann Davis, for want of sufficient proof, be rejected.